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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,808	05/28/2004	Serafino Bucti	BUR920040017US1	3807
42640 7590 07/17/2007 DILLON & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HWY SUITE 2110 AUSTIN, TX 78759			EXAMINER LAM, KENNETH T	
			ART UNIT 2609	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,808

Applicant(s)

BUETI ET AL.

Examiner

Kenneth Lam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/22/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed May 22, 2007 overcomes the following objection/rejection:

Rejection under 35 U.S.C. 112, first paragraph.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

3. Claims 1-20 is rejected under 35 U.S.C. 102(e) as being anticipated by McClennon et al, US 6,721,355 B1 for the same reasons as set forth in the last Office Action.

Response to Arguments

4. Applicant's arguments filed May 22, 2007 have been fully considered but they are not persuasive.

Applicant raises the following issues that are pertinent to the invention as claimed:

- a. The claimed adjusting step is performed "in response to an amount of data that needed to be sent by said sender." Since the claimed adjusting step is related to data sent instead of data received as taught by *McClennon*, *McClennon* does not teach or suggest the claimed adjusting step. In addition, the claimed adjusting step that deals with "an amount of data that needed to be sent by said sender" because the periodicity of data is not relevant to its amount.
- b. The claimed transmitting step allows data to be sent "according to said adjusted supply voltage level," which is more than the two modes as taught by *McClennon*.

Examiner respectfully disagrees.

With respect to the argument of the claimed adjusting step, *McClennon* disclosure teaches that a data traffic predictor **120** in Figure 3 is connected to a Tx user data and an output Tx rate control. The figure clearly discloses the data detection is related to the sender. In addition, the data traffic predictor **120** generally comprises a data traffic monitor **122**, a periodicity detector **124** and a power mode controller **126** (see column 7 lines 50-52). The data traffic monitor **122** monitors data arrival rate

which related to the claimed adjusting step that associated with "an amount of data that needed to be sent by said sender."

With respect to the argument of the claimed transmitting step, *McClennon* discloses a power adjustment steps on Figure 6 in contingent to the transmit data. The teaching discloses various voltage level adjustments. With respect to the "said adjusted supply voltage level," the power mode controller **126** in Figure 4 outputs the control/adjustment to modem **20** to set the appropriate power level (see column 7 lines 58-63). However, with respect to the control modes, it is a non-issue. The number of modes is not relevant to the independent Claim 1 (and similarly Claim 11).

For the reasons above, the 102 rejections as set forth in the last Office Action stand.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing data of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing data of this final action and the advisory action is not mailed until after the end of the **THREE MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing data of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Lam whose telephone number is (571) 270-1862. The examiner can normally be reached on Mon - Thu 7:30 am - 5:00 pm EST ALT Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kenneth Lam

VU LE
SUPERVISORY PATENT EXAMINER

